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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,010	02/19/2004	Christopher M. Frazeur	CN1.002	4305
7590 08/18/2006			EXAMINER	
Timothy E. Siegel Suite 206 1868 Knapps Alley West Linn, OR 97068-4644			QUINN, COLLEEN M	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 08/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/782,010	FRAZEUR, CHRISTOPHER M.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Colleen M. Quinn	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 2-5 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,7,9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04/19/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

This Final Office Action is mailed in response to amendment filed May 30th, 2006, wherein claims 1, 9 and 10 were amended, claims 2-5 and 8 remained canceled and claims 6 & 7 remained as previously presented.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9 and 10 remain rejected under 35 U.S.C. 102(b) as being anticipated by Paskey et al. (US 6,240,856). Paskey et al. disclose a retaining device comprising a support structure (40) supporting a class three type hitch receiver (48). Paskey discloses the vertical bar (32) to be a 2 inch square hollow steel tube (col. 4 lines 57-59), and that the bar (32) is received in the receiver (48) (col. 4 lines 38-42). Therefore the receiver (48) must have must be a Class III type hitch receiver which, as the applicant discloses in applicant's own specification, is known to accept a tongue that is square in cross section, with a square side length of 2 inches. The bar (32) continues (34) and extends horizontally (20). Paskey et al. disclose the weight of the supporting structure (40) indirectly by disclosing the material and the volume of the supporting structure. As calculated from column 4 lines 21-28, member 44 has a volume of .0009m<sup>3</sup> and member 42 has a volume of .0014m<sup>3</sup>. Although Paskey et al. have not

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disclosed the specific alloy of steel; the density of all types of steel is shown to range from 7750-8100 kg/m<sup>3</sup> (from the engineering fundamentals website cited on the PTO-892). Using the maximum density of 8100 kg/m<sup>3</sup>, each member has a maximum weight of 7.29 kg for member 44 and 11.34 kg for member 42 for a combined maximum weight of 18.63 kg.

With respect to claim 10, Paskey et al. disclose the device to be supported by a set of wheels (46) to provide mobility (col. 4 lines 28-30).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, and 6-7 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Parrish (US 2002/0017770) alone. Parrish discloses a method of supporting a rack having a tongue adapted to be inserted into a receptacle (par. 35 ln. 7-14). The method of Parrish involves providing a trailer hitch receiver assembly mounted to a static structure for receiving trailer hitch assemblies. The trailer hitch receiver (22) disclosed by Parrish is seen to be Class III receiver by the given dimension of a 2" standard hitch (par. 4 ln.6), which is known to be the standard dimensions of a class III hitch. The receiver assembly is comprised of a plate (20) having apertures for fasteners (bolt holes 86a-f) where bolts holes 86a and 86b are aligned to be received in vertical

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stud. The static support structure disclosed by Parrish can be a garage wall (par. 35 ln. 16). Parrish specifically discloses the method of removing a rack from a vehicle trailer hitch and inserting the tongue of a rack into the trailer hitch receiver assembly mounted to static support (par. 35 ln. 7-14). Using the trailer hitch receiver of Parrish for storing a bicycle rack is also disclosed (par. 4. ln. 4). Parrish does not disclose the step of aligning the fastener holes on the plate with a vertical stud. The plate of Parrish is a symmetrical square; accordingly, it has not limitations regarding top, bottom or left and right. Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to align holes 86a and 86b with a vertical stud in the wall so as to increase the strength of the hitch.

The step of inserting the tongue of the bicycle rack into the hitch is understood to be inherent within the disclosure of Parrish. Parrish discloses hitch mounted bicycle racks (Par. 4). Accordingly it is understood that hitch mounted bike racks are used by inserting the tongue of the rack into the hitch.

With respect to claim 6, Parrish does not disclose that a bicycle must be removed from the rack before mounting the rack. Parrish also discloses "While the trailer hitch apparatuses are inserted into the present invention, these apparatuses can store the same equipment that the apparatus normally carries" (Par. 8 lines 9-12). Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to move the rack and bicycle together so as to save the extra steps of removing and installing the bicycle.

With respect to claim 7, the step of inserting the tongue of the bicycle rack into the vehicle hitch, removing the bicycle rack, and inserting the tongue into the wall mounted hitch is understood to be inherent in the disclosure of Parrish. Parrish discloses vehicle mounted bicycle racks are well known in the art, and the apparatus of Parrish is for storing vehicle mounted bicycle racks on a wall mounted hitch.

### ***Response to Arguments***

Applicant's arguments filed May 30<sup>th</sup>, 2006 have been fully considered but they are not persuasive. Applicant argues that prior art rejecting claims 9 & 10 does not have a hitch receiver extending horizontally. "Horizontal" is a relative term and cannot be used to distinguish the prior art from the applicant's, as the direction of what the receiver is horizontal with respect to is user defined. Applicant's arguments are more limiting than that of the claims.

Applicant's arguments (Remarks, lines 24-28) regarding what the applicant is defining as "co-planar" are unclear and uninformative. The prior art of Parrish clearly depicts fasteners, as discussed above, which are co-planar (Figure 10a) to the hitch receiver. Additionally, and as previously discussed above, it would have been obvious to one of ordinary skill to align the fasteners with a stud in a selected wall. Applicant does not claim a specific width for the selected stud, and one of ordinary skill would only attach the receiver and plate to a stud wide enough for the assembly. Additionally, there is no reason to believe the assembly could not be mounted a single stud.

Applicant argues that Parrish does not disclose the hitch receiver to hold a bicycle on supposed bike rack. However, Parrish does not only disclose the tow hitch apparatus may have a bike rack on it (par. 4, ln. 4), but also discloses that the inserted trailer hitch can still support items as in conventional usage (par. 5 lns. 7-10), making it inherent that a bicycle rack on the hitch can still carry the bike attached.

An affidavit under 37 CFR 1.104 (d) (2) is not necessary as the arguments of this rejection are based upon common sense that *any one* of ordinary skill would possess. It would be common sense, that when attaching a hitch receiver (or any mount for that matter) to a wall, it be mounted to a stud, to assure maximum support from the wall.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

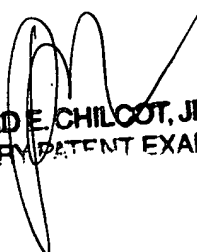
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colleen M. Quinn whose telephone number is (571) 272-6289. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CMQ  
08/11/06

  
RICHARD E. CHILCOT, JR.  
SUPERVISORY PATENT EXAMINER